

From: Wilson, Gerald
To: 'microsoft.atr(a)usdoj.gov'
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Subject: Microsoft Settlement

Dear DoJ,

For years I have followed closely - or as closely as I can from here in the UK - the antitrust case brought by DoJ and sundry US States against Microsoft.

I realise that, in making a legal case, it can be important to limit the areas of dispute, and to fight on grounds which are reasonably assured. So I am aware that the case brought by the plaintiffs against Microsoft was specific and limited.

As the evidence presented to the initial presiding judge (Judge Thomas Penfield Jackson) accumulated in public view, it became manifest to the common man that the case against Microsoft was simply overwhelming. Judge Jackson himself, in his Findings of Fact, set a new precedent for the clarity of assessment of complicated technical argument. Microsoft had been found demonstrably guilty as charged; all that was required was a punishment fit for the crime.

It was no surprise that Microsoft should choose to appeal Thomas Jackson's judgement, and it was (of course) regrettable that Thomas Jackson, by some of his own ill-advised actions, strengthened the grounds for the appeal. Nevertheless, regardless of any propaganda interpretation, the simple fact remains: the appeal court substantially upheld Jackson's judgement. Microsoft, on appeal, had still been found guilty as charged; all that was required was a punishment fit for the crime.

It falls to you to deliver that punishment; and to make such remedial changes as are needed to prevent that crime from ever being repeated.

In drafting the punishment and remedy, it is important to consider the context of the crime. Microsoft's criminal behaviour, as proven by the antitrust case, is not a temporary aberration. Rather it is a chronic condition. There are numerous other examples of anticompetitive behaviour from Microsoft which might equally well have formed the basis of a provable case. For example: actions taken against the product DR-DOS more than ten years ago; the undermining of Apple Computer's business by withdrawing applications support at the time of the launch of Windows 95; the propaganda campaign to undermine the OpenDoc standard, when it was perceived as a threat to Microsoft's maintenance of the applications barrier to entry. The examples are legion. The effect has been clear. Over more than a decade Microsoft has built a monopoly business by illegal means, and has then sought to protect that monopoly by further illegal means. The damage is felt worldwide. These actions have harmed the interests of consumers, business

and the computer industry in general. Because of these actions the world's IT is over-priced, which means that throughout the world products cost more than they need to, schools can afford fewer facilities, hospitals can afford less medical care, and ultimately more people perish from ill-health, malnutrition and starvation. Microsoft is rich because, through its illegal monopoly, it has siphoned money away from everyone else. That, ultimately, is the crime the DoJ has to punish, and the yoke which the DoJ must lift from future generations.

The year 2001 has seen some spectacular demonstrations of the cost to the world of the Microsoft monopoly. Email viruses like SirCam have brought business to its knees. Security experts confirm: these are direct consequences of the world's enforced dependence on shabbily insecure Microsoft products.

I would like to believe that you are up to this awesome responsibility, and are poised to deliver appropriate punishment and necessary remedy. Alas, I don't think you are. From all that I have read about the details of the proposed final settlement it looks like a spineless cave-in. The guilty criminal will go unpunished, and the criminal behaviour will carry on, to plague the next generation as it has plagued this one. This is a time in history when you can make a difference. Are you Makers of Difference?

History, I think, will judge Thomas Jackson well. At least he had guts.

How history judges the DoJ's final settlement is unknown. Gutless? We shall see.

Gerald W Wilson
Engineering Facilities Manager

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CC: 'gww(a)stonehill.org.uk'